December 5, 2003

Bulletin 123

Use of Credit Information by Insurance Companies

This Bulletin is directed to all insurance companies, as defined by IC 27-1-2-3, that write personal lines property and casualty products in this state. IC 27-2-21 as added by Senate Enrolled Act 178 (P.L. 201-2003) addresses the use of credit information by these insurance companies for applications submitted and policies issued, delivered, amended or renewed after December 31, 2003. The definitions contained in IC 27-2-21 apply to this bulletin. Bulletin 122 is withdrawn and replaced by this Bulletin 123.

An insurer that uses a credit score to underwrite and rate risks shall file the insurer's scoring models or other scoring processes with the Department of Insurance (Department). This filing is confidential under IC 5-14-3-4(a)(1) and IC 27-2-21-20(d) and not available for public inspection. Companies should identify their filings as made pursuant to IC 27-2-21 and should separate all confidential documents and clearly identify them as confidential as described in Bulletin 111. Pursuant to IC 27-2-21-20 the scoring model and other scoring processes are confidential.

Insurers that use credit information were required by Bulletin 111 to file their credit scoring methodologies in 2002. If the 2002 filing is compliant with the provisions of IC 27-2-21 then there is no need for the insurer to file in 2003. In these cases, the insurer should notify the Department in writing that they have made no changes to the 2002 filing and certify that it is compliant with the provisions of IC 27-2-21.

An insurer may not deny, cancel or decline to renew a personal insurance policy solely on the basis of credit information. An insurer may not base an insured's renewal rate for a personal insurance policy solely on credit information. The Department interprets this prohibition to mean that an insurer may not deny, cancel, decline to renew or increase a renewal rate due to a credit score unless at least one other rating factor has changed to indicate a denial, cancellation, declination to renew or increase in the premium rate. These actions are considered "adverse actions". Other factors may include, but are not limited to, driver class, driving record, age of home, age of the insured, claim experience, and number of vehicles owned. If no other factor used in underwriting or rating would cause the insurer to deny, cancel, decline to renew or increase a renewal rate and credit information would indicate such an action, the insurer is prohibited from denying, canceling, declining to renew or increasing the premium rate, as this would constitute taking an adverse action solely on the basis of credit information. A base rate change cannot be identified as the second factor to support an adverse action.

If credit is one of the factors leading to an adverse action the insurer must use a credit report issued or a credit score calculated not more than ninety (90) days before the policy is first written or a renewal is issued. In addition, the insurer shall provide notice to the consumer in accordance with the federal Fair Credit Reporting Act and provide notice to the consumer explaining the reason for the adverse action. This notice shall be sufficiently clear and use specific, not general, language to identify the basis for the insurer's adverse action.

An insurer may not use income, gender, address, zip code, ethnic group, religion, marital status or nationality as a factor in determining the credit score. An insurer may not take an adverse action against a consumer solely because the consumer does not have a credit card account. The absence of credit information may not be used in underwriting or rating unless the insurer (1) presents to the Commissioner information that the absence relates to the risk for the insurer and the insurer treats the consumer as approved by the Commissioner; or (2) the insurer treats the consumer as if the consumer had neutral credit information. If an insured requests, the insurer must re-underwrite or re-rate the policy with an updated credit report or score not more often than one time in a twelve (12) month period. Beginning January 1, 2004, an insurer may not use a credit score or credit report that is older than thirty-six (36) months in the issuance or renewal of a policy.

An insurance score cannot consider as a negative factor a credit inquiry that was not initiated by the consumer. A consumer's inquiry as to his/her own credit cannot be used as a negative factor. Credit inquiries relating to insurance coverage or unpaid medical bills cannot be used as negative factors. Multiple lender inquiries related to a home mortgage in a thirty (30) day period can only be counted as one inquiry. Multiple lender inquiries related to automobile financing in a thirty (30) day period can only be counted as one inquiry.

The application of insurance must inform the consumer that credit information is used by the insurer. The insurer must have a policy in place for handling notification of an error in a credit report and also a procedure for a consumer to dispute a credit score.

The Department will review filings to ensure that insurers using credit information are acting appropriately. An insurer that is found to be acting contrary to the provisions of IC 27-2-21 may be subject to enforcement action under IC 27-4-1.

INDIANA DEPARTMENT OF INSURANCE

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Sally McCarty, Commissioner